

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS ROGER WHITE, JR. and
PATRICIA CAULEY on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

SAMSUNG ELECTRONICS
AMERICA, INC. and SONY
ELECTRONICS INC.,

Defendants.

Civil Action No. 17-1775
(MCA) (JSA)

Hon. Madeline Cox Arleo, U.S.D.J.
Hon. Jessica S. Allen, U.S.M.J.

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ANSWER AND AFFIRMATIVE
AND OTHER DEFENSES OF
DEFENDANT SAMSUNG
ELECTRONICS AMERICA, INC.
TO THE SECOND AMENDED
CLASS ACTION COMPLAINT

Defendant Samsung Electronics America, Inc. (“Samsung”) responds to the Second Amended Class Action Complaint (the “Complaint”) as follows. Samsung denies all allegations not expressly admitted in this Answer, including allegations found in the Complaint’s headings, footnotes, and elsewhere. Samsung responds herein only on behalf of itself as the named defendant, and not its parent or affiliates who are not defendants in this action. Plaintiffs also improperly lump together the “Defendants” indiscriminately throughout the Complaint. Samsung lacks knowledge and information sufficient to form a belief as to the truth of any allegations in the Complaint regarding Defendant Sony Electronics, Inc. (“Sony”), and Samsung is not responding on behalf of Sony.

I. RESPONSE TO INTRODUCTION AND SUMMARY OF CASE

1. Samsung denies the allegations relating to Samsung in Paragraph 1, including without limitation footnote 1. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 1.

2. The allegations in Paragraph 2 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 2. Samsung lacks knowledge sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2, including without limitation footnote 2.

3. Samsung denies the allegations relating to Samsung in Paragraph 3. Samsung avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, Automated Content Recognition (“ACR”), which can collect a “fingerprint” of the programming displayed on the SmartTV. Samsung further avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartHub Terms and Conditions, Samsung Privacy Policy, Viewing Information Services notice, Viewing History Privacy Notice, Interest-Based Advertisement notice, Interactive Interest-Based Marketing notice, and/or Voice Recognition Services notice, including any relevant updates or supplements thereto (collectively, the “SmartTV Policies”), and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung

lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3.

4. Samsung denies the allegations relating to Samsung in Paragraph 4. Samsung avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV. Samsung further avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4.

5. Samsung denies the allegations relating to Samsung in Paragraph 5. Samsung avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, interest-based advertising, which can allow targeted advertisements to be delivered to the SmartTV and/or other devices sharing the same IP address. Samsung further avers that any interest-based advertising in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such interest-based advertising is only enabled if the user consents to the applicable SmartTV Policies. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 5.

6. Samsung denies the allegations relating to Samsung in Paragraph 6. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6.

7. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegation that “Nielsen family members agree to share their viewing habits and are paid for their participation,” the allegations in footnote 3, and the allegations in Paragraph 7 relating to Sony. Samsung denies all remaining allegations in Paragraph 7.

8. Samsung denies the allegations relating to Samsung in Paragraph 8. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 8.

9. Samsung denies the allegations relating to Samsung in Paragraph 9. Samsung avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 9.

10. Samsung denies the allegations relating to Samsung in Paragraph 10, including without limitation footnote 4. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10.

11. Samsung denies the allegations relating to Samsung in the first sentence of Paragraph 11. Samsung avers that Plaintiffs consented to any data collection in connection with their Samsung SmartTVs in the SmartTV Policies. As to the second sentence of Paragraph 11, Samsung denies that this action may be brought as a class action suit, denies that it violated any laws, and further denies all other allegations relating to Samsung in Paragraph 11, including without limitation footnote 5. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 11.

12. Samsung denies the allegations relating to Samsung in Paragraph 12. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 12.

13. Samsung denies the allegations relating to Samsung in Paragraph 13. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 13.

14. The allegations in Paragraph 14 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 14.

Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 14.

II. RESPONSE TO PARTIES

15. Samsung denies that it collected any information from Plaintiff Cauley without her consent and further denies it collected her “personal and viewing data and/or the contents of her conversations and disseminate[d] that information to third parties.” Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 15 relating to Plaintiff Cauley, including without limitation footnotes 6 and 7.

16. Samsung denies that it collected any information from Plaintiff White without his consent and further denies it collected his “personal and viewing data and/or the contents of his conversations and disseminate[d] that information to third parties.” Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations relating to Plaintiff White in Paragraph 16.

17. Samsung denies that Plaintiffs’ “personal and viewing data” was “collected by [Samsung] and disseminated to third parties” or that “the contents of their voice conversations were analyzed and disclosed to third parties” by Samsung. Samsung avers that any data collection in connection with Plaintiffs’ Samsung SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies.

Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 17.

18. Samsung denies the allegations relating to Samsung in Paragraph 18. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 18.

19. Samsung denies the allegations relating to Samsung in Paragraph 19. Samsung avers that any data collection in connection with Plaintiffs' Samsung SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 19.

20. Samsung admits that it is in the business of consumer electronics, its corporate headquarters is in New Jersey, and that it sells televisions and other products in retail stores throughout the United States, such as Costco, Sam's Club, Walmart, and Best Buy. Samsung denies all other allegations relating to Samsung in Paragraph 20. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 20.

21. Samsung denies that its principal place of business is 105 Challenger Road Ridgefield Park, N.J. 07660, and avers that its corporate headquarters is 85 Challenger Road, Ridgefield Park, NJ 07660. Samsung admits that its corporate

headquarters is in New Jersey, and that it markets, advertises, sells, and distributes for sale consumer electronic devices, including SmartTVs, throughout the United States. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the allegations regarding “market leader” and “market share” in Paragraph 21. Samsung denies all remaining allegations in Paragraph 21.

22. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

III. RESPONSE TO JURISDICTION AND VENUE

23. The allegations in Paragraph 23 are legal conclusions to which no response is required.

24. The allegations in Paragraph 24 are legal conclusions to which no response is required.

25. Samsung admits that it conducts business in New Jersey. The remaining allegations of Paragraph 25 are legal conclusions to which no response is required.

26. Samsung admits that its corporate headquarters is in the District of New Jersey and that it conducts business in New Jersey. Samsung lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in the first and second sentence of Paragraph 26. The remaining allegations in Paragraph 26 are legal conclusions to which no response is required.

27. Samsung admits that its corporate headquarters is in New Jersey, that it conducts business in New Jersey, and that it oversees sales, advertising, marketing, and product promotion activities from its facilities in New Jersey. Samsung denies all other allegations relating to Samsung in Paragraph 27. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 27.

28. The allegations in Paragraph 28 relate to claims that have been dismissed, consist of legal conclusions or argument, and therefore do not require a response.

IV. RESPONSE TO FACTUAL ALLEGATIONS

29. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29, including without limitation footnote 8.

30. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, including without limitation footnotes 9 and 10.

31. Samsung admits that some Samsung SmartTVs allow users to access the Internet and certain on-demand services such as Netflix, Hulu, and Pandora and other online media content, such as Facebook and Twitter, and that other television sets lack such functionality. Samsung lacks knowledge or information sufficient to

form a belief as to the remaining allegations in Paragraph 31 in light of the ambiguity of the phrases “popular,” “technological cross,” “technological function,” and “integrated software applications.”

32. Samsung admits that certain SmartTVs can be used to access movies and television shows on an on-demand basis and that are not broadcast on network or cable television. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 32 in light of the ambiguity of the phrases “traditional television sets,” “popular,” and “video-store.”

33. Samsung admits and avers that it distributes Samsung-branded high definition televisions and other audio and entertainment products in the United States. Samsung denies all other allegations relating to Samsung in Paragraph 33. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33, including without limitation footnote 11.

34. Samsung admits and avers that it began selling SmartTVs in or around 2011 in the United States and that many of its SmartTVs have HDMI, coaxial, analog audio, and other video input ports. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 34.

35. Samsung admits and avers that many of its SmartTVs have the ability to connect to the internet via wireless internet networking and to access certain forms of audio or visual entertainment and other information on the internet. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 35, including without limitation footnote 13 relating to Plaintiff Cauley.

36. Samsung admits and avers that many of its SmartTVs are sold with certain pre-installed applications, which may include Netflix, YouTube, Amazon, Pandora, Hulu, Twitter, and others, and that certain of these applications allow users to stream video to their SmartTV. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 36.

37. Samsung admits and avers that many of its SmartTVs are capable of receiving cable television and satellite television with the appropriate equipment and capable of receiving on-demand viewing services via an on-demand services provider. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 37, including footnote 14 relating to Plaintiff Cauley.

38. Samsung admits and avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV. Samsung denies all

other allegations relating to Samsung in Paragraph 38. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 38.

39. Samsung denies the allegations relating to Samsung in Paragraph 39, including without limitation footnote 15. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 39.

40. Samsung denies the allegations relating to Samsung in Paragraph 40. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 40.

41. Samsung admits and avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV. Samsung denies all other allegations relating to Samsung in Paragraph 41. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 41.

42. Samsung denies the allegations relating to Samsung in Paragraph 42. Samsung avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, interest-based advertising. Samsung further avers that any interest-based advertising in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only

enabled if the user consents to the applicable SmartTV Policies. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 42.

43. Samsung denies the allegations relating to Samsung in Paragraph 43. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 43.

44. Samsung admits and avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV. Samsung further avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung denies all other allegations relating to Samsung in Paragraph 44. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 44.

45. Samsung admits and avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV, as well as IP address and MAC address information. Samsung further avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the

applicable SmartTV Policies. Samsung denies all other allegations relating to Samsung in Paragraph 45. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 45.

46. Samsung admits and avers that certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can collect a “fingerprint” of the programming displayed on the SmartTV, and that in some cases, ACR can determine the date, time, and channel of the programming. Samsung further avers that any data collection in connection with its SmartTVs was and is disclosed in the applicable SmartTV Policies, and such data collection is only enabled if the user consents to the applicable SmartTV Policies. Samsung denies all other allegations relating to Samsung in Paragraph 46. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 46.

47. Samsung admits and avers certain of its SmartTVs offer, as an optional feature that is enabled only if a user consents, ACR, which can in some cases determine the time during which programming was viewed and the duration it was viewed for. Samsung denies all other allegations relating to Samsung in Paragraph 47. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 47.

48. Samsung denies the allegations relating to Samsung in the first sentence of Paragraph 48. Samsung admits that the second sentence of Paragraph 48 purports to define the term internet protocol (“IP”) address, but denies that the definition is complete and accurate and contains all explanation necessary to be understood properly in the context of the claim in this litigation. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 48.

49. Samsung denies the allegations in Paragraph 49.

50. Samsung denies the allegations relating to Samsung in Paragraph 50. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 50.

51. Samsung denies the allegations relating to Samsung in Paragraph 51. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 51.

52. Samsung denies the allegations relating to Samsung in Paragraph 52. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 52.

53. Samsung denies the allegations relating to Samsung in Paragraph 53. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 53.

54. Samsung denies the allegations relating to Samsung in the first sentence of Paragraph 54. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 54, including without limitation footnote 19.

55. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55, including without limitation footnote 20.

56. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56, including without limitation footnotes 21 and 22.

57. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57, including without limitation footnote 23.

58. Samsung denies the allegations in Paragraph 58, including without limitation footnote 24.

59. Samsung denies the allegations relating to Samsung in Paragraph 59. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 59.

60. Samsung denies the allegations relating to Samsung in Paragraph 60. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 60.

61. Samsung denies the allegations relating to Samsung in Paragraph 61. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 61.

62. Samsung denies the allegations relating to Samsung in Paragraph 62. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 62.

63. Samsung denies the allegations relating to Samsung in Paragraph 63. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 63.

64. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64, including without limitation footnote 25.

65. Samsung denies the allegations relating to Samsung in Paragraph 65. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 65.

66. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66, including without limitation footnote 26.

67. Samsung denies the allegations relating to Samsung in Paragraph 67. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 67, including without limitation footnote 27.

68. Samsung denies the allegations relating to Samsung in Paragraph 68. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 68.

69. Samsung admits that the allegations in Paragraph 69 purport to define the term media access control (MAC) addresses, but denies that the definition is complete and accurate and contains all explanation necessary to be understood properly in the context of the claim in this litigation. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 69.

70. Samsung denies the allegations in the first sentence of Paragraph 70, and lacks knowledge or information sufficient to form a belief as to truth of the remaining allegations of Paragraph 70.

71. Samsung denies the allegations in the first sentence of Paragraph 71, and lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 71.

72. Samsung lacks knowledge or information sufficient to form a belief as to truth of the allegations in Paragraph 72.

73. Samsung denies the allegations relating to Samsung in Paragraph 73. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 73.

74. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74, including without limitation footnotes 28 and 29.

75. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75, including without limitation footnote 30.

76. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76, including without limitation footnote 31.

77. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77, including without limitation footnotes 32 and 33.

78. Samsung denies the allegations relating to Samsung in the first and third sentences of Paragraph 78, and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 78, including without limitation the second sentence of Paragraph 78 and footnote 34.

79. Samsung denies the allegations relating to Samsung in Paragraph 79. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 79.

80. Samsung denies the allegations relating to Samsung in Paragraph 80. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 80.

81. Samsung denies the allegations relating to Samsung in Paragraph 81, including without limitation footnote 35. Samsung lacks knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 81.

82. Samsung admits that the Electronic Privacy Information Center submitted a “Complaint, Request for Investigation, Injunction, and Other Relief” to the Federal Trade Commission (the “EPIC Complaint”) and that the above-quoted text appeared in the EPIC Complaint, but Samsung denies the allegations in the EPIC Complaint. Samsung avers that the Federal Trade Commission took no action against Samsung based on the EPIC Complaint. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in footnotes

36 and 37 and the allegations in Paragraph 82 to the extent they relate to Sony. Samsung denies all remaining allegations in Paragraph 82.

83. Samsung admits that the block-quoted text appears in the EPIC Complaint, and denies all remaining allegations in Paragraph 83, including without limitation footnote 38.

84. Samsung admits that the block-quoted text appears in the EPIC Complaint, and denies all remaining allegations in Paragraph 84, including without limitation footnote 39.

85. Samsung admits that the above-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 85, including without limitation footnote 40.

86. Samsung admits that the above-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 86, including without limitation footnote 41.

87. Samsung admits that the above-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 87, including without limitation footnote 42.

88. Samsung admits that the above-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 88, including without limitation footnote 43.

89. Samsung admits that the block-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 89, including without limitation footnote 44.¹

99. Samsung admits that the block-quoted text appears in the EPIC Complaint, and lacks knowledge or information sufficient to admit or deny any remaining allegations in Paragraph 99, including without limitation footnote 45.

100. Samsung admits that the block-quoted text appears in the EPIC Complaint, and denies all remaining allegations in Paragraph 100, including without limitation footnote 46.

V. RESPONSE TO CLASS ACTION ALLEGATIONS

101. Paragraph 101 consists of legal conclusions or argument to which no response is required.

102. The allegations in Paragraph 102 relate to claims that have been dismissed, consist of legal conclusions or argument, and therefore no response is required.

103. The allegations in Paragraph 103 relate to claims that have been dismissed, consist of legal conclusions or argument, and therefore no response is required.

¹ Paragraphs 90 through 98 are omitted from the Complaint.

104. Paragraph 104 consists of legal conclusions or argument to which no response is required.

105. Paragraph 105 consists of legal conclusions or argument to which no response is required

106. Paragraph 106 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies that Plaintiffs may reserve any right to amend or modify the Class and/or Subclass definition beyond that allowed by the Court, and expressly reserves its right to oppose any attempt by Plaintiffs to amend or modify the Class and/or Subclass definitions.

107. Paragraph 107 consists of legal conclusions or argument to which no response is required.

108. Samsung denies the allegations relating to Samsung in Paragraph 108. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 108.

109. Paragraph 109 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 109. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 109.

110. Paragraph 110 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 110. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 110.

111. Paragraph 111 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 111. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 111.

112. Paragraph 112 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 112. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 112.

113. Paragraph 113 consists of legal conclusions or argument to which no response is required. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 113. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 113.

VI. RESPONSE TO CAUSES OF ACTION

RESPONSE TO FIRST CLAIM FOR RELIEF

Unfair and Deceptive Tracking and Transmission - Violations of the NJCFA

114. The allegations in Paragraph 114 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung incorporates by reference its responses to each preceding and successive paragraph as though fully set forth herein.

115. The allegations in Paragraph 115 relate to a claim that has been dismissed and therefore do not require a response.

116. The allegations in Paragraph 116 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response.

117. The allegations in Paragraph 117 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response.

118. The allegations in Paragraph 118 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 118. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 118.

119. The allegations in Paragraph 119 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 119. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 119.

120. The allegations in Paragraph 120 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 120. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 120.

121. The allegations in Paragraph 121 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 121. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 121.

122. The allegations in Paragraph 122 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 122. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 122.

123. The allegations in Paragraph 123 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations in Paragraph 123.

124. The allegations in Paragraph 124 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 124. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 124.

125. The allegations in Paragraph 125 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 125. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 125.

126. The allegations in Paragraph 126 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a

response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 126. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 126.

127. The allegations in Paragraph 127 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 127. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 127.

128. The allegations in Paragraph 128 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 128. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 128.

129. The allegations in Paragraph 129 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 129. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 129.

RESPONSE TO SECOND CLAIM FOR RELIEF

Deceptive Omissions - Violations of the NJCFA

130. The allegations in Paragraph 130 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung incorporates by reference its responses to all the foregoing paragraphs as though fully set forth herein.

131. The allegations in Paragraph 131 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 131. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 131.

132. The allegations in Paragraph 132 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 132. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 132.

133. The allegations in Paragraph 133 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 133. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 133.

134. The allegations in Paragraph 134 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 134. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 133.

135. The allegations in Paragraph 135 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 135. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 135.

136. The allegations in Paragraph 136 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 136. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 136.

137. The allegations in Paragraph 137 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 137. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 137.

138. The allegations in Paragraph 138 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 138. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 138.

139. The allegations in Paragraph 139 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 139. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 139.

140. The allegations in Paragraph 140 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 140. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 140.

141. The allegations in Paragraph 141 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 141. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 141.

142. The allegations in Paragraph 142 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 142. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 142.

143. The allegations in Paragraph 143 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a

response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 143. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 143.

144. The allegations in Paragraph 144 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 144. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 144.

145. The allegations in Paragraph 145 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 145. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 145.

146. The allegations in Paragraph 146 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 146. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 146.

RESPONSE TO THIRD CLAIM FOR RELIEF

Violations of the Video Privacy Protection Act, 18 U.S.C. § 2710

147. The allegations in Paragraph 147 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung incorporates by reference its responses to all of the foregoing allegations as though fully set forth herein.

148. The allegations in Paragraph 148 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 148. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 148.

149. The allegations in Paragraph 149 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 149. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 149.

150. The allegations in Paragraph 150 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 150. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 150.

151. The allegations in Paragraph 151 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 151. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 151.

152. The allegations in Paragraph 152 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 152. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 152.

153. The allegations in Paragraph 153 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 153. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 153.

154. The allegations in Paragraph 154 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 154. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 154.

155. The allegations in Paragraph 155 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 155. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 155.

156. The allegations in Paragraph 156 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 156. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 156.

157. The allegations in Paragraph 157 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 157. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 157.

158. The allegations in Paragraph 158 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 158. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 158.

159. The allegations in Paragraph 159 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 159. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 159.

160. The allegations in Paragraph 160 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a

response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 160 and further denies that Plaintiffs and putative class members are entitled to any relief or damages whatsoever. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 160.

RESPONSE TO FOURTH CLAIM FOR RELIEF

Violations of the Wiretap Act, 18 U.S.C. § 2510 et seq.

161. Samsung incorporates by reference all of its responses to the preceding paragraphs of the Complaint, including without limitation all denials therein, as if fully set forth in response to Paragraph 161.

162. The allegations in Paragraph 162 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung respectfully refers the Court to the Federal Wiretap Act, 18 U.S.C. § 2510 et seq., for its complete content and context.

163. The allegations in Paragraph 163 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung respectfully refers the Court to the definition of “Electronic communication” in 18 U.S.C. § 2510 for its complete content and context.

164. The allegations in Paragraph 164 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is

required, Samsung respectfully refers the Court to the definition of “Intercept” in 18 U.S.C. § 2510 for its complete content and context.

163. The allegations in this Paragraph 163 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung respectfully refers the Court to the definition of “Contents” in 18 U.S.C. § 2510 for its complete content and context.²

165. The allegations in Paragraph 165 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung respectfully refers the Court to the definition of “Person” in 18 U.S.C. § 2510 for its complete content and context.

166. The allegations in Paragraph 166 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 166. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 166.

167. The allegations in Paragraph 167 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 167.

² Two paragraphs numbered 163 appear in the Complaint. For the avoidance of doubt, this response relates to the paragraph numbered 163 that appears second in the Complaint.

Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 167.

168. The allegations in Paragraph 168 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 168. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 168.

169. The allegations in Paragraph 169 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 169. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 169.

170. The allegations in Paragraph 170 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 170. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 170.

171. The allegations in Paragraph 171 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 171.

Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 171.

172. The allegations in Paragraph 172 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 172. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 172.

173. The allegations in Paragraph 173 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 173 and further denies that Plaintiffs and putative class members are entitled to any relief or damages whatsoever. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 173.

174. The allegations in Paragraph 174 consist of legal conclusions or argument and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 174 and further denies that Plaintiffs are entitled to any relief or damages whatsoever. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 174.

RESPONSE TO FIFTH CLAIM FOR RELIEF

**Violation of Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA")
Fla. Stat. § 501.201, et seq.**

175. The allegations in Paragraph 175 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung incorporates by reference its responses to all of the foregoing allegations as if fully set forth herein.

176. The allegations in Paragraph 176 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 176. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 176.

177. The allegations in Paragraph 177 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 177. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 177.

178. The allegations in Paragraph 178 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response.

179. The allegations in Paragraph 179 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response.

180. The allegations in Paragraph 180 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 180. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 180.

181. The allegations in Paragraph 181 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 181. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 181.

182. The allegations in Paragraph 182 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a

response. To the extent any response is required, Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 182.

183. The allegations in Paragraph 183 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 183. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 183.

184. The allegations in Paragraph 184 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung admits and avers that it informs purchasers and users about their ability to stream and view video and to connect to other devices with a Samsung-branded SmartTV, but Samsung denies all other allegations relating to Samsung in Paragraph 184. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 184.

185. The allegations in Paragraph 185 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 185. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 185.

186. The allegations in Paragraph 186 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 186. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 186.

187. The allegations in Paragraph 187 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 187. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 187.

188. The allegations in Paragraph 188 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 188. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 188.

189. The allegations in Paragraph 189 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 189. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 189.

190. The allegations in Paragraph 190 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 190. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 190.

191. The allegations in Paragraph 191 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 191. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 191.

192. The allegations in Paragraph 192 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 192. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 192.

193. The allegations in Paragraph 193 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is

required, Samsung denies the allegations relating to Samsung in Paragraph 193. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 193.

194. The allegations in Paragraph 194 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 194. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 194.

195. The allegations in Paragraph 195 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 195. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 195.

196. The allegations in Paragraph 196 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 196. Samsung lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in Paragraph 196.

197. The allegations in Paragraph 197 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 197. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 197.

198. The allegations in Paragraph 198 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 198 and further denies that Plaintiffs and putative class members are entitled to any relief or damages whatsoever. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 198.

RESPONSE TO SIXTH CLAIM FOR RELIEF

Negligent Misrepresentation/Omission

199. The allegations in Paragraph 199 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung incorporates by reference its responses to the foregoing allegations as if fully set forth herein.

200. The allegations in Paragraph 200 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 200. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 200.

201. The allegations in Paragraph 201 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 201. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 200.

202. The allegations in Paragraph 202 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 202. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 200.

203. The allegations in Paragraph 203 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a

response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 203. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 203.

204. The allegations in Paragraph 204 relate to a claim that has been dismissed and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 204. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 204.

205. The allegations in Paragraph 205 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 205. Samsung lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 205.

206. The allegations in Paragraph 206 relate to a claim that has been dismissed, consist of legal conclusions or arguments, and therefore do not require a response. To the extent any response is required, Samsung denies the allegations relating to Samsung in Paragraph 206 and further denies that Plaintiffs and putative class members are entitled to any relief or damages whatsoever. Samsung lacks

knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 206.

VII. RESPONSE TO PRAYER FOR RELIEF

The allegations in the lettered Paragraphs following Paragraph 206 of the Complaint contain Plaintiffs' prayer for relief, to which no response is required. To the extent a response is required, Samsung denies that Plaintiffs are entitled to the relief requested or to any other relief.

VIII. RESPONSE TO DEMAND FOR JURY TRIAL

Samsung admits that Plaintiffs purport to demand a trial by jury but deny that Plaintiffs have demonstrated the right to a trial before a jury or otherwise.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming any burden that it would not otherwise have, Samsung asserts the defenses set forth below. By virtue of alleging these further defenses, Samsung does not assume any burden of proof, persuasion, or production not otherwise legally assigned to it. Samsung also does not concede that facts contrary to one or more of the averments that follow would support liability as to it. Samsung reserves all rights to assert additional or amended defenses.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs lack standing to assert any claims because they did not suffer any legally cognizable harm as a result of any alleged act or omission of Samsung.

THIRD DEFENSE

Each Plaintiff lacks standing to assert any claim relating to any television other than the models that Plaintiffs purchased.

FOURTH DEFENSE

Plaintiffs' claim is barred in whole or in part to the extent that Plaintiffs and putative class members are bound to arbitrate their claims under a binding agreement with Samsung.

FIFTH DEFENSE

Plaintiffs cannot establish that Samsung is directly liable for violating the Electronic Communications Privacy Act (ECPA).

SIXTH DEFENSE

Samsung cannot be held secondarily liable under ECPA.

SEVENTH DEFENSE

Plaintiffs cannot establish that Samsung has the requisite scienter to be held liable under ECPA.

EIGHTH DEFENSE

Plaintiffs cannot establish an "intercept" as that term is defined under ECPA.

NINTH DEFENSE

Plaintiffs cannot establish that any acquisition of a communication was contemporaneous with its transmission.

TENTH DEFENSE

Plaintiffs cannot establish that any “contents” of a communication as defined under ECPA were intercepted by Samsung.

ELEVENTH DEFENSE

Plaintiffs cannot establish that a “device” was used as required by ECPA.

TWELFTH DEFENSE

Plaintiffs cannot establish that any information captured, used, and/or disclosed constituted an “electronic communication” as that term is defined under ECPA.

THIRTEENTH DEFENSE

Plaintiffs cannot establish that any information captured, used and/or disclosed affected interstate or foreign commerce.

FOURTEENTH DEFENSE

Plaintiffs’ claim is barred in whole or in part because Plaintiffs gave prior consent to any interception, use and/or disclosure of a communication.

FIFTEENTH DEFENSE

Plaintiffs' claim is barred in whole or in part because any communications were with Samsung or were communications to which a party to the communication had given consent to its acquisition.

SIXTEENTH DEFENSE

Plaintiffs' claim is barred in whole or in part because at all relevant times, Samsung's actions were a necessary incident to the rendition of services.

SEVENTEENTH DEFENSE

Plaintiffs' claim is barred in whole or in part because at all relevant times, Samsung's actions were within the ordinary course of business.

EIGHTEENTH DEFENSE

Plaintiffs' claim is barred in whole or in part because at all relevant times, Samsung relied in good faith on the determination that its actions were authorized by law.

NINETEENTH DEFENSE

To the extent that any of Plaintiffs' electronic communications were intercepted or Plaintiffs suffered any damages, it was the result of conduct of other individuals or entities for whom Samsung is not responsible.

TWENTIETH DEFENSE

Plaintiffs' claim is barred in whole or in part under the applicable statute of limitation.

TWENTY-FIRST DEFENSE

Plaintiffs' claim is barred in whole or in part by the doctrine of laches.

TWENTY-SECOND DEFENSE

Plaintiffs' claim is barred in whole or in part by waiver.

TWENTY-THIRD DEFENSE

Plaintiffs' claim is barred in whole or in part by the doctrines of estoppel and acquiescence.

TWENTY-FOURTH DEFENSE

Plaintiffs' claim is barred by Plaintiffs' unclean hands.

TWENTY-FIFTH DEFENSE

This action cannot be properly maintained as a class action because Plaintiffs cannot satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and Plaintiffs are not proper class representatives.

TWENTY-SIXTH DEFENSE

Plaintiffs' claim is barred in whole or in part because Plaintiffs cannot establish that they suffered any actual damages as a result of any alleged act or omission by Samsung.

TWENTY-SEVENTH DEFENSE

Statutory damages should not be awarded or should otherwise be limited because: (i) such an award would violate the substantive and procedural safeguards guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by the common law; and (ii) the imposition of such an award would constitute an excessive fine or penalty under the Eighth Amendment to the United States Constitution.

TWENTY-EIGHTH DEFENSE

If Plaintiffs have sustained any damages as alleged in the Second Amended Complaint, which Samsung denies, Plaintiffs failed to mitigate said damages.

TWENTY-NINTH DEFENSE

Plaintiffs are not entitled to injunctive relief.

THIRTIETH DEFENSE

Plaintiffs' claim, and the claim of any putative class member is barred in whole or in part by the provisions of the Arbitration Agreement and class action waiver contained in Samsung's Terms and Conditions.

Dated: April 12, 2023

Respectfully submitted,

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